

Remarks/ Arguments

In response to the Office Action mailed January 31, 2005, Applicant respectfully requests that the Examiner reconsider the rejections of the claims. Applicant notes with appreciation the allowability of Claim 2

Claims 1-3 remain.

Claim 1 is being amended.

Claims 4-10 are being added.

Per the Examiner's suggestion, Applicant has amended the specification and claims, as set forth above, to define the present spring loaded throw rod as having a first rod portion having a first end connection to a piston and a second rod portion having an end coupled to the cylinder. Additionally, Applicant has corrected FIGURE 2, as suggested by the Examiner, to show one rod portion connected to the piston and another rod portion connected to the cylinder.

Claims 1 and 3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Feucht*. (U.S. Patent 1,480,678) (hereinafter "the *Feucht* reference"). Applicant respectfully traverses these rejections.

Anticipation rejections under 35 U.S.C. § 102(e) require identity of invention. In other words, the Examiner has the burden of identifying, *prima facie*, each and every feature of each and every claim rejected as anticipated in a single prior art reference.

As an initial matter, the *Feucht* reference does not teach a throw rod for a rail switch, but instead discloses a coupling for two cars, such as those used in roller coasters. Additionally, tubular member 23 is not externally removable, but appears to be coupled internal to the car coupling by threaded member 22. Finally, slots 28 in tubular member 28 appear to control rotary movement within the car coupling, rather than longitudinal movement.

ATTORNEY DOCKET NO
0945RF - 42268

PATENT
U.S. 10/829,553

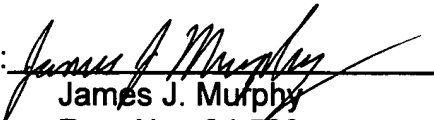
No new matter has been added; the claims have been merely amended to more particularly claim the subject matter Applicant believes is inventive. Applicant respectfully submits that the Claims as they now stand are patentably distinct over the art cited during the prosecution thereof.

With the addition of six (6) new claims, no additional filing fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account Number 20-0821 of Thompson & Knight LLP.

If the Examiner has any questions or comments concerning this paper or the present application in general, the Examiner is invited to call the undersigned at (214) 969 - 1749.

Respectfully submitted,

Thompson & Knight LLP
Attorneys for Applicant

By: 
James J. Murphy
Reg. No. 34,503

1700 Pacific Avenue
Suite 3300
Dallas TX. 75201 - 4693
Date: December 6, 2005
14,